

Introduced by Senator Soto

February 23, 2006

An act to amend Sections 22217, 22362, 22820, 23852, and 23855 of, and to add Section 22404 to, the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 1465, as introduced, Soto. State teachers' retirement.

(1) Existing law requires the Teacher's Retirement Board to employ a certified public accountant or public accountant, who is not in public employment, to annually audit the financial statements of the State Teachers' Retirement System. Existing law requires the board to file a copy of the audit report with the Governor, the Secretary of State, and the Chief Clerk of the Assembly.

This bill would instead require that the audit report be incorporated into the annual report filed with the Governor and the Legislature.

(2) Existing law requires the Teacher's Retirement Board to give first priority to investing not less than 25% of all funds of the plan that become available in a fiscal year for new investments in specified real estate investments. Upon a specified determination, the board is permitted to substitute higher yielding investments, to the extent these are actually available for acquisition. In this case, the board is required to provide certain information regarding estimates to the Governor and the Joint Legislative Audit Committee, as specified.

This bill would eliminate the requirement that this information be provided upon the substitution of higher yielding investments.

(3) Existing law authorizes a state agency, upon authorization of the Franchise Tax Board, to forego collection of taxes, licenses, fees, or money owing to the state for any reason if the amount to be collected is \$250 or less.

This bill would permit the board to establish a specified amount or amounts below which the State Teachers' Retirement System may dispense with recalculation or adjustment of benefit payments, not to exceed \$250.

(4) Existing law allows a member of the State Teachers' Retirement System to purchase service credit for out-of-state service credited in a public retirement system for service performed in public education in another state or territory of the United States, as specified.

This bill would revise these provisions to eliminate the requirement that the out-of-state service be credited in a public retirement system. The bill would apply these provisions to service for teaching performed while employed by a public educational institution, as specified, or as an employee of the United States. The bill would also make conforming changes.

(5) The State Teachers' Retirement System provides for certain death benefits to be paid to the spouse, registered domestic partner, children, and the beneficiary of eligible members under specified circumstances. If a surviving spouse or registered domestic partner elect to receive a lump sum return of a members' accumulated contributions, then a survivor benefit allowance is not paid.

This bill would provide that, if there is not an eligible surviving spouse or domestic partner, the eligible dependent child or children, if any, may elect to receive the child's portion of the survivor benefit allowance, subject to certain limits.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22217 of the Education Code is
2 amended to read:
3 22217. (a) The board shall employ a certified public
4 accountant or public accountant, who is not in public
5 employment, to audit the financial statements of the system. The
6 costs of the audit shall be paid from the income of the retirement
7 fund. The audit shall be made annually ~~commencing with the~~
8 ~~fiscal year ending June 30, 1974. The board shall file a copy of~~
9 ~~the audit report with the Governor, the Secretary of the Senate,~~
10 ~~and the Chief Clerk of the Assembly and the audit report shall~~

1 *be incorporated into the annual report filed with the Governor*
2 *and the Legislature pursuant to Section 22324.*

3 (b) These audits shall not be duplicated by the Department of
4 Finance or the State Auditor. The system shall be exempt from a
5 pro rata general administrative charge for auditing.

6 SEC. 2. Section 22362 of the Education Code is amended to
7 read:

8 22362. (a) Notwithstanding any other provision of law, the
9 board shall give first priority to investing not less than 25 percent
10 of all funds of the plan that become available in a fiscal year for
11 new investments, in any of the following:

12 (1) Obligations secured by a lien or charge solely on
13 residential realty, including rental housing, located in the state
14 and on the security of which, commercial banks are permitted to
15 make loans pursuant to Article 2 (commencing with Section
16 1220) of Chapter 10 of Division 1 of the Financial Code.

17 (2) Securities representing a beneficial interest in a pool of
18 obligations secured by a lien or charge solely on residential realty
19 located in the state.

20 (3) Certificates of deposit issued by savings and loan
21 associations, if the savings and loan associations agree to make
22 loans, or to fund tax-exempt notes or bonds issued by housing
23 authorities, cities, or counties, on residential realty located in the
24 state, including rental housing, in an amount equal to the amount
25 of the deposit.

26 (b) Funds subject to investment pursuant to this section
27 include all moneys received as employer and member
28 contributions, investment income, and the proceeds from all net
29 gains and losses from securities, reduced by the amount of
30 benefit payments and withdrawals occurring during the fiscal
31 year. In computing the amount of investment pursuant to this
32 section, a dollar-for-dollar credit shall be given for residential
33 realty investments described in this section that are contractually
34 agreed to be made by a financial institution from which the
35 board, in consideration thereof, purchases other such
36 investments. In computing the amount of investment pursuant to
37 this section, the board may elect to include the dollar amount of
38 commitments to purchase mortgages from public revenue bond
39 programs in the year the commitment is given. However, that
40 election may not exceed one-fifth of the total guideline amount.

1 (c) Nothing in this section shall be construed to require the
2 acquisition of any instrument or security at less than the market
3 rate.

4 (d) If the board determines during any fiscal year that
5 compliance with this section will result in lower overall earnings
6 for the retirement fund than obtainable from alternative
7 investment opportunities that would provide equal or superior
8 security, including guarantee of yield, the board may substitute
9 those higher yielding investments, to the extent actually available
10 for acquisition, for the investments otherwise specified by this
11 section. Additionally, if, and to the extent that, adherence to the
12 diversification guideline specified in this section would conflict
13 with its fiduciary obligations in violation of Section 9 of Article I
14 of the California Constitution or Section 10 of Article I of the
15 United States Constitution, or would conflict with the standard
16 for prudent investment of the fund as set forth in Section 17 of
17 Article XVI of the California Constitution, the board may
18 substitute alternative investments. ~~In that case, the board shall~~
19 ~~estimate the amount of funds available in substitute alternative~~
20 ~~investments and the amount of funds invested pursuant to~~
21 ~~subdivision (a) and shall submit its resolution of findings and~~
22 ~~determinations, together with a description of the type, quantity,~~
23 ~~and yield of the investments substituted, to the Governor and to~~
24 ~~the Joint Legislative Audit Committee within 20 days following~~
25 ~~the conclusion of the fiscal year. Within 30 days thereafter, the~~
26 ~~Joint Legislative Audit Committee shall transmit the State~~
27 ~~Auditor's report to the Speaker of the Assembly and to the~~
28 ~~Senate Committee on Rules for transmittal to affected policy~~
29 ~~committees.~~

30 (e) The board, upon determining the final amount of funds
31 available for investment in substitute alternative investments and
32 the estimated amount of funds invested pursuant to subdivision
33 (a), shall submit that information to the Governor and the Joint
34 Legislative Audit Committee. Thereafter, the Joint Legislative
35 Audit Committee shall transmit the report of the State Auditor to
36 the Speaker of the Assembly and the Senate Committee on Rules
37 for transmittal to the affected policy committees.

38 SEC. 3. Section 22404 is added to the Education Code, to
39 read:

1 22404. Notwithstanding any other provision of this part or
2 Part 14 to the contrary, the board may establish by plan
3 amendment a specified amount or amounts below which the
4 system may dispense with any recalculation of, or other
5 adjustment to, benefit payments, not to exceed the amount
6 authorized by Section 13943.2 of the Government Code.

7 SEC. 4. Section 22820 of the Education Code is amended to
8 read:

9 22820. (a) A member, other than a retired member, may elect
10 to purchase *credit for out-of-state service* ~~credited in a public~~
11 ~~retirement system for service covering public education~~
12 *performed in a position while employed by a public educational*
13 *institution located in another state or territory of the United*
14 *States, or* ~~by for teaching service performed as an employee of~~
15 ~~the United States for its citizens.~~ The member may not receive
16 credit for this service if the member has credit or is eligible to
17 receive credit for the same service in the Cash Balance Benefit
18 Program under Part 14 (commencing with Section 26000) or
19 another public retirement system, excluding social security.

20 (b) The amount of out-of-state service for which a member
21 may purchase credit may not exceed the number of years of
22 service *either* credited to the member in the out-of-state
23 retirement system *or performed by the member as an employee of*
24 *the public educational institution of the United States.*

25 (c) Out-of-state service credit may be purchased under this
26 section by means of any of the following actions:

27 (1) Paying an amount equal to the amount refunded from the
28 other public retirement system and receiving service credit under
29 the Defined Benefit Program pursuant to subdivision (a) of
30 Section 22823.

31 (2) Paying the contributions required under the Defined
32 Benefit Program pursuant to subdivision (a) of Section 22823 for
33 the service credited in the other public retirement system.

34 (3) Paying an amount equal to the amount refunded from the
35 other public retirement system and an additional amount in
36 accordance with subdivision (a) of Section 22823 for the service
37 credited in the other public retirement system.

38 (d) Compensation for out-of-state service may not be used in
39 determining the highest average annual compensation earnable
40 when calculating final compensation.

(e) The service credit purchased under this section may not be used to meet the eligibility requirements for benefits provided under Sections 24001 and 24101.

SEC. 5. Section 23852 of the Education Code is amended to read:

23852. Upon receipt of proof of death of a member who has no preretirement option in effect:

(a) The surviving spouse may elect to receive either of the following:

(1) The member's accumulated retirement contributions in a lump sum.

(2) The survivor benefit allowance pursuant to Sections 23854 and 23855.

(b) If there is no eligible surviving spouse, the eligible dependent child or children, if any, may elect to receive the child's portion of the survivor benefit allowance pursuant to Sections 23854, 23855, and 23856. The child's portion of the survivor benefit allowance shall be paid in lieu of the return of the member's accumulated retirement contributions.

(c) If there is no eligible surviving spouse or eligible dependent child or children, the member's accumulated retirement contributions shall be paid to the member's beneficiary in a lump sum.

~~(e)~~

(d) The member's accumulated annuity deposit contributions shall be paid to the member's beneficiary in a lump sum.

(e) The payment of accumulated contributions in a lump sum shall include credited interest through the date of payment.

SEC. 6. Section 23855 of the Education Code is amended to read:

23855. (a) The survivor benefit allowance is a monthly allowance equal to one-half of the modified retirement allowance the member would have received at age 60 years, if the member had retired and elected Option 3 as provided in Section 24300, naming the spouse as the option beneficiary.

(b) The allowance payable under this subdivision shall be based on the member's actual service credit and final compensation as of the date of his or her death, the age 60 retirement factor, and the member's and spouse's ages as of the date the member would have attained age 60 years. If the

1 member's death occurs after he or she attains age 60 years, his or
2 her actual final compensation, the age 60 retirement factor, and
3 the member's and spouse's ages as of the date of the member's
4 death shall be used in the allowance calculation.

5 (c) The allowance calculation shall include service credit for
6 the unused sick leave that had accrued to the member as of the
7 date of his or her death. Eligibility for the inclusion of unused
8 sick leave service credit and the calculation of that service credit
9 shall be determined pursuant to Section 22717.

10 (d) The surviving spouse may elect to begin receiving the
11 survivor benefit allowance immediately as of the date of the
12 member's death or to defer receipt of the allowance to the date
13 the member would have attained age 60 years. If allowance
14 payments to the surviving spouse commence prior to the date the
15 member would have attained age 60 years, the allowance payable
16 shall be actuarially reduced.

17 (e) If the spouse elects, pursuant to Section 23852, to receive
18 the survivor benefit allowance, an additional 10 percent of final
19 compensation shall be payable for each dependent child who is
20 not older than age 21 years, up to a maximum of 50 percent of
21 final compensation. The child's portion shall begin to accrue on
22 the day following the member's date of death and shall be
23 payable even if the spouse elects to postpone receipt of the
24 spouse's survivor benefit allowance until the date the member
25 would have attained age 60 years.

26 (f) *If there is no surviving spouse, an allowance in an amount*
27 *equal to 10 percent of the deceased member's final compensation*
28 *shall be paid to each dependent child who is not older than 21*
29 *years of age, up to a maximum of 50 percent of final*
30 *compensation. If there are more than five dependent children,*
31 *they shall receive allowances in equal shares of the 50 percent of*
32 *final compensation. A child's portion of the survivor benefit*
33 *allowance shall begin to accrue on the day following the*
34 *member's date of death.*